

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Thomas Vail,
Petitioner
v.
Brian Williams, et al.,
Respondents

2:15-cv-01093-JAD-VCF

**Order Dismissing Amended Petition,
Denying Certificate of Appealability,
and Closing Case**

Thomas Vail brings this § 2254 petition to challenge his state-court restitution order.¹ In his amended petition, Vail asserts two grounds for relief: (1) a claim that the prosecution failed to follow state-law guidelines for imposing a restitution order and (2) an ineffective-assistance-of-counsel claim for failure to research restitution figures. Success on either of these grounds would affect only the restitution order, not Vail's physical liberty, so I lack jurisdiction to entertain them because "[28 U.S.C.] § 2254(a) does not confer jurisdiction over a state prisoner's in-custody challenge to a restitution order imposed as part of a criminal sentence."² And because reasonable jurists would not find my conclusion that I lack jurisdiction over Vail's claims debatable or wrong, I decline to issue a certificate of appealability.

Conclusion

Accordingly, IT IS HEREBY ORDERED that **this action is DISMISSED for lack of jurisdiction and a certificate of appealability is denied.** The Clerk of Court is instructed to enter judgment accordingly and CLOSE THIS CASE.

¹ ECF 14.

² *Bailey v. Hill*, 599 F.3d 976, 982 (9th Cir. 2010).

1 IT IS FURTHER ORDERED that the Clerk of Court is instructed to add Adam Paul Laxalt,
2 Attorney General for the State of Nevada, as counsel for respondents. The Clerk of Court is directed
3 to serve respondents with a copy of the amended petition [ECF 14] and a copy of this order. No
4 response by respondents is necessary.

5 Dated this 20th day of April, 2016.

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8 Jennifer A. Dorsey
9 United States District Judge
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